



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2019-0305; FRL-10007-15-Region 4]

Air Plan Approval; Tennessee; Chattanooga Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Chattanooga portion of the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) on behalf of the Chattanooga/Hamilton County Air Pollution Control Bureau (Bureau) on September 12, 2018. The SIP submittal removes and replaces the Chattanooga City Code, Air Pollution Control Ordinances pertaining to the Chattanooga-Hamilton County Air Pollution Control Board (Board), powers and duties of the Board, penalties, enforcement and permit fees. The SIP revision that EPA is approving is consistent with the requirements of the Clean Air Act (CAA or Act).

DATES: This rule will be effective **[Insert 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2019-0305. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Through a letter dated September 12, 2018, TDEC submitted a SIP revision on behalf of the Bureau requesting removal and replacement of certain air quality rules in the Chattanooga portion of the Tennessee SIP.^{1,2} This rulemaking approves the Chattanooga City Code Part II,

¹ The Bureau is comprised of Hamilton County and the municipalities of Chattanooga, Collegedale, East Ridge, Lakesite, Lookout Mountain, Red Bank, Ridgeside, Signal Mountain, Soddy Daisy, and Walden. The Bureau recommends regulatory revisions, which are subsequently adopted by the eleven jurisdictions. The Bureau then implements and enforces the regulations, as necessary, in each jurisdiction. Because the air pollution control regulations/ordinances adopted by the jurisdictions within the Bureau are substantively identical (except as noted

Chapter 4, Section 4-4, “Penalties for violation of chapter, permit or order,”³ Section 4-6, “Air pollution control board; bureau of air pollution control; persons required to comply with chapter,”⁴ Section 4-7, “Powers and duties of the board; delegation,”⁵ Paragraphs 4-8(a)(14), 4-8(c)(12), 4-8(d)(4) and 4-8(d)(6) in Section 4-8, “Installation permit and certificate of operation,”⁶ Paragraph 4-10(a), “Records,”⁷ and Section 4-17, “Enforcement of chapter;

later in this document), EPA refers solely to Chattanooga and the Chattanooga rules throughout the document as representative of the other ten jurisdictions for brevity and simplicity. *See* footnotes 3 through 8, later in this document.

² EPA received the SIP revision on September 18, 2018.

³ In this final action, EPA is also approving substantively similar changes in the following sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 4 (9/6/17); City of Collegedale – Section 14-304 (10/16/17); City of East Ridge – Section 8-4 (10/26/17); City of Lakesite – Section 14-4 (11/2/17); Town of Lookout Mountain – Section 4 (11/14/17); City of Red Bank – Section 20-4 (11/21/17); City of Ridgeside – Section 4 (1/16/18); City of Signal Mountain – Section 4 (10/20/17); City of Soddy-Daisy – Section 8-4 (10/5/17); and Town of Walden – Section 4 (10/16/17). The only substantive difference between the various jurisdictions’ regulations is that Chattanooga Ordinance Part II, Chapter 4, Section 4-4 contains an additional sentence regarding fines and fees, which is discussed later in this document.

⁴ In this final action, EPA is also approving substantively similar changes in the following sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 6 (9/6/17); City of Collegedale – Section 14-306 (10/16/17); City of East Ridge – Section 8-6 (10/26/17); City of Lakesite – Section 14-6 (11/2/17); Town of Lookout Mountain – Section 6 (11/14/17); City of Red Bank – Section 20-6 (11/21/17); City of Ridgeside – Section 6 (1/16/18); City of Signal Mountain – Section 6 (10/20/17); City of Soddy-Daisy – Section 8-6 (10/5/17); and Town of Walden – Section 6 (10/16/17).

⁵ In this final action, EPA is also approving substantively similar changes in the following sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 7 (9/6/17); City of Collegedale – Section 14-307 (10/16/17); City of East Ridge – Section 8-7 (10/26/17); City of Lakesite – Section 14-7 (11/2/17); Town of Lookout Mountain – Section 7 (11/14/17); City of Red Bank – Section 20-7 (11/21/17); City of Ridgeside – Section 7 (1/16/18); City of Signal Mountain – Section 7 (10/20/17); City of Soddy-Daisy – Section 8-7 (10/5/17); and Town of Walden – Section 7 (10/16/17).

⁶ In this final action, EPA is also approving substantively similar changes in the following sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 8 (9/6/17); City of Collegedale – Section 14-308 (10/16/17); City of East Ridge – Section 8-8 (10/26/17); City of Lakesite – Section 14-8 (11/2/17); Town of Lookout Mountain – Section 8 (11/14/17); City of Red Bank – Section 20-8 (11/21/17); City of Ridgeside – Section 8 (1/16/18); City of Signal Mountain – Section 8 (10/20/17); City of Soddy-Daisy – Section 8-8 (10/5/17); and Town of Walden – Section 8 (10/16/17).

⁷ In this final action, EPA is also approving substantively similar changes in the following sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 10 (9/6/17); City of Collegedale – Section 14-310 (10/16/17); City of East Ridge – Section 8-10 (10/26/17); City of Lakesite – Section 14-10 (11/2/17); Town of Lookout Mountain – Section 10 (11/14/17); City of Red Bank – Section 20-10 (11/21/17); City of Ridgeside –

procedure for adjudicatory hearings for violations” into the Chattanooga portion of the Tennessee SIP.^{8,9}

In a notice of proposed rulemaking (NPRM) published on February 10, 2020 (85 FR 7491), EPA proposed to approve the revision to the Chattanooga portion of the Tennessee SIP provided on September 18, 2018. The NPRM provides additional detail regarding the background and rationale for EPA’s action. Comments on the NPRM were due on or before March 2, 2020. EPA received no adverse comments on the NPRM.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the following provisions of Chattanooga City Code, Part II, Chapter 4, locally effective on October 3, 2017: Section 4-4, “Penalties for violation of chapter, permit or order;” Section 4-6, “Air pollution control board; bureau of air pollution control; persons required to comply with chapter;” Section 4-7, “Powers and duties of the board; delegation;” Paragraphs 4-

Section 10 (1/16/18); City of Signal Mountain – Section 10 (10/20/17); City of Soddy-Daisy – Section 8-10 (10/5/17); and Town of Walden – Section 10 (10/16/17).

⁸ In this final action, EPA is also approving substantively similar changes in the following sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 17 (9/6/17); City of Collegedale – Section 14-17 (10/16/17); City of East Ridge – Section 8-17 (10/26/17); City of Lakesite – Section 14-17 (11/2/17); Town of Lookout Mountain – Section 17 (11/14/17); City of Red Bank – Section 20-17 (11/21/17); City of Ridgeside – Section 17 (1/16/18); City of Signal Mountain – Section 17 (10/20/17); City of Soddy-Daisy – Section 8-17 (10/5/17); and Town of Walden – Section 17 (10/16/17). The only substantive difference between the various jurisdictions’ regulations is that Chattanooga City Code Part II, Chapter 4, Section 4-17 contains an additional paragraph concerning citation of violators to municipal court, which is discussed below.

⁹ EPA received other revisions to the Chattanooga portion of the Tennessee SIP transmitted with the same September 12, 2018, cover letter. EPA will be considering action for those other SIP revisions in a separate rulemaking.

8(a)(14), 4-8(c)(12), 4-8(d)(4) and 4-8(d)(6) in Section 4-8, “Installation permit and certificate of operation;” Paragraph 4-10(a) in Section 4-10, “Records;” and Section 4-17, “Enforcement of chapter; procedure for adjudicatory hearings for violations.”¹⁰ EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.¹¹

III. Final Action

EPA is approving the removal and replacement in the entirety of the following rules in the Chattanooga-Hamilton County portion of the Tennessee SIP with the version of the rules submitted on September 12, 2018: Chapter 4, Section 4-4, “Penalties for violation of chapter, permit or order,” Section 4-6, “Air pollution control board; bureau of air pollution control; persons required to comply with chapter,” Section 4-7, “Powers and duties of the board; delegation,” Paragraphs 4-8(a)(14), 4-8(c)(12), 4-8(d)(4) and 4-8(d)(6) in Section 4-8, “Installation permit and certificate of operation,” Paragraph 4-10(a), “Records,” and Section 4-17, “Enforcement of chapter; procedure for adjudicatory hearings for violations.”

IV. Statutory and Executive Order Reviews

¹⁰ EPA’s approval also includes regulations/ordinances submitted for the other ten jurisdictions within the Bureau. See footnotes 3 through 8, above.

¹¹ See 62 FR 27968 (May 22, 1997).

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations

Dated: March 17, 2020.

Mary S. Walker,

Regional Administrator,

Region 4.

For the reasons set out in the preamble, 40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart RR–Tennessee

2. In § 52.2220(c), amend Table 4 by revising the entries for “Section 4-4”, “Section 4-6”, “Section 4-7”, “Section 4-8”, “Section 4-10”, “Section 4-17” under the heading “Article I. In General,” to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

TABLE 4 – EPA-APPROVED CHATTANOOGA REGULATIONS

State section	Title/subject	Adoption date	EPA approval date	Explanation
Article I. In General				
**	**	*	*	*
Section 4-4	Penalties for violation of chapter, permit or order	10/3/2017	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	EPA’s approval includes the corresponding sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Chattanooga-Hamilton County Air Pollution Control Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 4 (9/6/17); City of Collegedale – Section 14-304 (10/16/17); City of East Ridge – Section 8-4 (10/26/17); City of Lakesite – Section 14-4 (11/2/17); Town of Lookout Mountain – Section 4 (11/14/17); City of Red Bank – Section 20-4 (11/21/17); City of Ridgeside – Section 4 (1/16/18); City of Signal Mountain – Section 4 (10/20/17); City of Soddy-Daisy – Section 8-4 (10/5/17); and Town of Walden – Section 4 (10/16/17).
**	**	*	*	*

Section 4-6	Air pollution control board; bureau of air pollution control; persons required to comply with chapter	10/3/2017	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	EPA's approval includes the corresponding sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Chattanooga-Hamilton County Air Pollution Control Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 6 (9/6/17); City of Collegedale – Section 14-306 (10/16/17); City of East Ridge – Section 8-6 (10/26/17); City of Lakesite – Section 14-6 (11/2/17); Town of Lookout Mountain – Section 6 (11/14/17); City of Red Bank – Section 20-6 (11/21/17); City of Ridgeside – Section 6 (1/16/18); City of Signal Mountain – Section 6 (10/20/17); City of Soddy-Daisy – Section 8-6 (10/5/17); and Town of Walden – Section 6 (10/16/17).
-------------	---	-----------	---	---

Section 4-7	Power and duties of the board; delegation	10/3/2017	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	EPA's approval includes the corresponding sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Chattanooga-Hamilton County Air Pollution Control Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 7 (9/6/17); City of Collegedale – Section 14-307 (10/16/17); City of East Ridge – Section 8-7 (10/26/17); City of Lakesite – Section 14-7 (11/2/17); Town of Lookout Mountain – Section 7 (11/14/17); City of Red Bank – Section 20-7 (11/21/17); City of Ridgeside – Section 7 (1/16/18); City of Signal Mountain – Section 7 (10/20/17); City of Soddy-Daisy – Section 8-7 (10/5/17); and Town of Walden – Section 7 (10/16/17).
-------------	---	-----------	---	---

Section 4-8	Installation permit, temporary operating permit, certification of operation and solid fuel permit	10/3/2017	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	<p>Except paragraphs 4-8(a)(1)-(13), (a)(15), (b)(1)-(5), (c)(1)-(4), (d)(1)-(3), (d)(7), (d)(9), and (e)(1)-(2), approved 2/18/97, with an 8/16/95 local adoption date; and paragraphs 4-8(a)(16), (c)(5)-(11), (d)(5), (d)(8), (f), and (g), which are not approved into the SIP.</p> <p>Due to intervening numbering changes, the versions of paragraphs 4-8(a)(14), (d)(4), and (d)(6) with local adoption dates of both 8/16/95 and 10/3/17 are approved into the SIP.</p> <p>EPA's approval includes the corresponding sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Chattanooga-Hamilton County Air Pollution Control Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 8 (9/6/17); City of Collegedale – Section 14-308 (10/16/17); City of East Ridge – Section 8-8 (10/26/17); City of Lakesite – Section 14-8 (11/2/17); Town of Lookout Mountain – Section 8 (11/14/17); City of Red Bank – Section 20-8 (11/21/17); City of Ridgeside – Section 8 (1/16/18); City of Signal Mountain – Section 8 (10/20/17); City of Soddy-Daisy – Section 8-8 (10/5/17); and Town of Walden – Section 8 (10/16/17).</p>
**	**	*	*	*

Section 4-10	Records	10/3/2017	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	Except paragraph 4-10(b) approved 5/10/90, with a 7/20/89 local adoption date. EPA's approval includes the corresponding sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 10 (9/6/17); City of Collegedale – Section 14-310 (10/16/17); City of East Ridge – Section 8-10 (10/26/17); City of Lakesite – Section 14-10 (11/2/17); Town of Lookout Mountain – Section 10 (11/14/17); City of Red Bank – Section 20-10 (11/21/17); City of Ridgeside – Section 10 (1/16/18); City of Signal Mountain – Section 10 (10/20/17); City of Soddy-Daisy – Section 8-10 (10/5/17); and Town of Walden – Section 10 (10/16/17).
**	**	*	*	*

Section 4-17	Enforcement of chapter; procedure for adjudicatory hearings	10/3/2017	[Insert date of publication in <u>Federal Register</u>], [Insert citation of publication]	EPA's approval includes the corresponding sections of the Air Pollution Control Regulations/Ordinances for the remaining jurisdictions within the Bureau, which were locally effective as of the relevant dates below: Hamilton County – Section 17 (9/6/17); City of Collegedale – Section 14-17 (10/16/17); City of East Ridge – Section 8-17 (10/26/17); City of Lakesite – Section 14-17 (11/2/17); Town of Lookout Mountain – Section 17 (11/14/17); City of Red Bank – Section 20-17 (11/21/17); City of Ridgeside – Section 17 (1/16/18); City of Signal Mountain – Section 17 (10/20/17); City of Soddy-Daisy – Section 8-17 (10/5/17); and Town of Walden – Section 17 (10/16/17).
**	**	*	*	*

* * * * *

[FR Doc. 2020-06582 Filed: 4/3/2020 8:45 am; Publication Date: 4/6/2020]